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Emergency Bill 48-87

Seventh Floor Hearing Room
Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Thursday,
November 5, 1987

The above-entitled matter came on for hearing,
pursuant to notice, at 7:35 p.m.

BEFORE: ROSE CRENCIA
Board Chairman

BOARD MEMBERS:

WILLIAM E. HANNA, JR.
BRUCE ADAMS
MICHAEL L. SUBIN

ALSO PRESENT:

MARTY CROZIER
MICHAEL FADEN

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APPEARANCES:

WILLIAM GARRETT

Personnel Director, Montgomery County

NORMAN CONWAY

Montgomery County Career Firefighters Association

DEPOSITION SERVICES, INC.

"YOU are our most valued client"

10401 Grosvenor Place
Rockville, Md. 20852
(301) 493-4110

3201 New Mexico Ave., N.W.
Washington, D.C. 20016
(202) 362-1379

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I N D E X

STATEMENT OF:

PAGE:

William Garrett

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Norman Conway

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P R O C E E D I N G S

CHAIRMAN CRENCIA: The meeting will please come to order. Good evening, ladies and gentlemen. This is a public hearing on Bill 48-87, Collective Bargaining, Fire and Rescue Employees, an emergency act to: 1) establish a Fire/Rescue collective bargaining unit; 2) establish a filing date for certification petitions for new bargaining units; and 3) generally amend certain collective bargaining provisions.

Persons wishing to submit additional information for the Council's consideration should do so by the close of business on Monday, November 9th, 1987.

Our first speaker this evening is listed as Mr. Garrett representing the County Executive, and not seeing Mr. Garrett, I suppose we have --

VOICE: Mr. Garrett just walked in.

CHAIRMAN CRENCIA: Oh, Mr. Garrett is here. All right, Mr. Garrett, representing the County Executive. Good evening.

MR. GARRETT: Good evening, Madam President, members of Council. My name is William Garrett. I'm Personnel Director for Montgomery County Government. On behalf of the County Executive, I've been asked to provide testimony regarding Council Emergency Bill 48-87.

On October 15, 1987, the County Council unanimously

1 voted for other emergency legislation, Council Bill 42-87,
2 to permit the transfer of certain paid firefighters to the
3 County Merit System. That legislation provides -- excuse
4 me -- for voluntary transfer of eligible of eligible fire
5 corporation employees into the County Merit System by
6 January 15, 1988.

7 The definition section of the County Collective
8 Bargaining Law, Montgomery County Code, which will be
9 applicable to these transferred firefighters provides that
10 firefighters below the rank of Sergeant will be employees
11 within the meaning of the statute. Upon transfer, they
12 would become part of the existing office, professional and
13 technical bargaining unit.

14 Historically there are several reasons why it is
15 in the interest of the Government and these employees to
16 provide a separate bargaining unit for non-supervisory
17 Fire/Rescue workers. The occupation of firefighter and
18 public employee was the first job category to be recognized
19 as requiring a separate bargaining unit due to the narrow
20 and unique community of interest of firefighters. Indeed,
21 the first firefighter bargaining unit was formed in the
22 City of Cincinnati in 1897.

23 Over the intervening years, a pattern of separate
24 bargaining units for firefighters has become ingrained in
25 public employment. Today, in those State, County and

1 Municipal and Governmental jurisdictions in which public
2 employees enjoy collective bargaining, it is universally
3 recognized that the community of interest shared by
4 firefighters requires that the local government deal with
5 firefighter employee organizations separate and apart from
6 other employees and employee organizations.

7 Many Personnel policies, practices and working
8 conditions which control Fire/Rescue employees' day to day
9 work life are unique, including scheduling, uniforms,
10 equipment, safety, training, promotion and performance
11 evaluation. No other single occupational group, other than
12 police officers, is the size, approximately 600 employees,
13 of the non-supervisory Fire/Rescue work force. For all of
14 the reasons, the County Executive believes it is in the
15 best interest of the County Government, Personnel
16 administration and management collective bargaining goals to
17 create a separate bargaining unit for non-supervisory
18 Fire/Rescue employees under the current provisions of the
19 County collective bargaining law.

20 Item 1) This legislation introduced by Council
21 President at the request of the County Council is emergency
22 legislation. It's necessary for the Council to enact these
23 recommended technical amendments to the County collective
24 bargaining law on an emergency basis as a consequence of the
25 timing of the transfer opportunity afforded eligible fire

1 corporation employees. Specifically, Council Bill 42-87
2 provides for transfer of eligible corporation employees
3 to the County Merit System by January 15, 1988. It's
4 essential to act quickly to avoid confusion over whether
5 these employees will have a separate bargaining unit or
6 be part of the existing OPT bargaining unit of Local 400
7 and to avoid creating conflict with the existing collective
8 bargaining agreements. For these reasons, the separate
9 Fire/Rescue bargaining unit must exist before eligible
10 corporation employees enter the County Merit System under
11 the provisions of Bill 42-87; therefore, this legislation,
12 Council Bill 48-87, has been submitted as emergency
13 legislation to ensure that the new Fire/Rescue bargaining
14 unit is in place before the transfer of eligible
15 corporation employees into the County Merit System.

16 Item 2) The proposed legislation constitutes
17 technical amendments to the existing County collective
18 bargaining law. These technical amendments create a third
19 bargaining unit entitled "The Fire/Rescue Unit" by
20 amending Section 33-108(a) of the County collective
21 bargaining law. Specifically, the section's reference to
22 two units for collective bargaining is changed to three.

23 Further, the bill adds a definition of the
24 new Fire/Rescue unit and establishes that the unit will be
25 composed of the employees of the occupational classes of

1 master firefighter and firefighter rescuer one, two and
2 three. This bill provides a technical amendment to
3 Section 33-105(b) of the law which gives authority for the
4 creation of the Fire/Rescue unit through legislative
5 amendment. This technical amendment is necessary because
6 Fire/Rescue personnel employed by independent corporations,
7 unlike certain County employees, were never covered by
8 meet and confer legislation which was the genesis of the
9 unit structure currently provided for in the County
10 collective bargaining law.

11 Item 3) The proposed legislation establishes a
12 90 day period, usually known as a filing window, after the
13 creation of the new bargaining unit to permit employee
14 organizations to file representational petitions with the
15 County labor relations administrator. If the County labor
16 relations administrator finds that the petition filed during
17 this period has valid signatures of 30 percent or more of
18 the bargaining unit, a question concerning representation,
19 which is referred to as the QCR, is raised, the QCR is
20 resolved by an election among the bargaining unit employees
21 conducted by the Maryland State Department of Labor.

22 This addition to the provisions of the County
23 collective bargaining law is largely technical since the
24 existing language allows for representational petitions only
25 between September 1 and September 30 of any year a collective

1 bargaining agreement is not in effect. This original 30
2 day filing window was legislated without consideration of
3 the addition of new collective bargaining units.

4 Item 4) Due to the timing of implementation of
5 the transfer of the eligible corporation employees, no
6 employee organization can be certified as the exclusive
7 representative of the new Fire/Rescue bargaining unit until
8 the spring of 1988, even assuming that such an employee
9 organization can raise a QCR by filing a valid petition
10 with the labor relations administrator at the 30 percent
11 level before the 90 day filing window has run. The
12 applicable provision of the County collective bargaining law
13 at Section 33-108 states, "Collective bargaining shall begin
14 no later than November 1, before the beginning of a fiscal
15 year for which there is no agreement between the employer
16 and the certified representative". Therefore, the County
17 will be under no duty to bargain a term or comprehensive
18 collective bargaining agreement with any employee
19 organization selected as the exclusive representative for
20 the Fire/Rescue bargaining unit until November 1 of 1988;
21 moreover, any such agreement would not take effect until
22 July 1 of 1989; therefore, there will be no direct
23 budgetary impact as a result of the creation of this
24 bargaining unit until the fiscal year beginning July 1, 1989.

25 In summary, as a result of the Council's

1 enactment of Bill 42-87, eligible corporation Fire/Rescue
2 employees who choose to transfer into the County Merit
3 System would become part of the existing OPT bargaining unit
4 of Local 400. This bargaining unit is not an appropriate
5 unit for Fire/Rescue workers in light of the occupation's
6 history, community of interest and unique working
7 conditions. To provide for the appropriate administration
8 of the County's collective bargaining program, it is
9 necessary to make a series of amendments to the provisions
10 of the County collective bargaining law by emergency
11 legislation.

12 These amendments create a new Fire/Rescue
13 bargaining unit, provide authority for establishment of the
14 unit and establish a 90 day filing window following enactment
15 for any employee organization to file an appropriate
16 representation petition resulting in a representation
17 election in accordance with applicable law. To ensure the
18 continuing successful labor relations program here in the
19 County and to protect the interests of County management
20 while providing a full measure of self-determination to
21 County Fire/Rescue workers, I urge the immediate passage of
22 Bill 48-87.

23 CHAIRMAN CRENCIA: Thank you, Mr. Garrett. Are
24 there any questions? Mr. Allen.

25 MR. ALLEN: I think Mr. Garrett has made a very

1 serious omission. Isn't there someone you brought with you
2 you want to introduce to us?

3 MR. GARRETT: -- not necessary. That's my
4 youngest daughter, Lane.

5 MR. ALLEN: Well, Mother Crenca doesn't want her
6 in here without the introduction --

7 CHAIRMAN CRENCAL: That's right. Mother Crenca says
8 that children are our greatest treasure and we want to make
9 sure everybody knows they're here. We welcome you. We
10 want you to know that your Daddy works hard all the time,
11 and we're glad to have him here. He helps us out.

12 Are there any other comments or questions? Do
13 any of you wish to say any additional comments? Nothing?
14 Go ahead. Thank you very much.

15 MR. GARRETT: Thank you.

16 CHAIRMAN CRENCAL: Our next speaker, Steve Hobbs,
17 representing Montgomery County Career Firefighters'
18 Association.

19 MR. CONWAY: Mr. Hobbs is going to cede his
20 time to me.

21 CHAIRMAN CRENCAL: Fine.

22 MR. SUBIN: Oh, wait a minute. Wait a minute.

23 MR. CONWAY: I was flying down I-95 at 65 miles
24 an hour just to be here.

25 CHAIRMAN CRENCAL: There is no reciprocity between

1 the Fire Department and the Police Department when it comes
2 to law breaking.

3 MR. CONWAY: Madam President, and I think you
4 can hear me. Madam President and gentlemen of the Council,
5 I thank you for this opportunity to come before you tonight
6 and speak on behalf of Bill 48-87. Along with the copy
7 of my short, very short testimony is the copy of a letter
8 from Thomas McNutt of Local 400 giving us his blessings
9 and Mr. Water Bader of the FOP of Montgomery County doing
10 likewise.

11 On behalf of the Montgomery County career
12 firefighters I'd like to thank you for this opportunity to
13 speak on Bill 48-87 which addresses the creation of a
14 separate bargaining unit for the County firefighters and
15 rescue squadsmen. With the advent of County employment
16 for fire service employees came the necessity of creating
17 a separate bargaining unit.

18 Firefighters have unique working conditions and
19 special safety concerns. These matters would most
20 effectively be addressed by the formation of this separate
21 unit. The citizens back in 1984 overwhelmingly expressed
22 their support for collective bargaining for their County
23 employees. I believe they would feel as spirited about
24 Bill 48-87 as they did about that original bill.

25 I have confidence that you, as elected trustees

1 of the public's interest, will feel likewise. The
2 intricacies of the working conditions, safety concerns,
3 and hours worked by fire service personnel are ones that
4 require special considerations. With the establishment of
5 a separate bargaining unit, these concerns most effectively
6 will be addressed. It is for these reasons we ask for your
7 support of Bill 48-87. Thank you very much.

8 CHAIRMAN CRENCIA: Thank you. Are there any
9 questions?

10 VOICE: You got here just in time. It's over.
11 It's over.

12 CHAIRMAN CRENCIA: Then do I understand, Mr.
13 Conway, that then generally there are no real questions to
14 be raised that you find the legislation, the proposed
15 legislation acceptable and that the Executive does also,
16 and it ought to be a breeze for us to go through?

17 MR. CONWAY: I think on all parties concerned,
18 that we're very happy about the resolution.

19 CHAIRMAN CRENCIA: All right. Thank you. Are there
20 any others who wish to be heard? Then I will consider the
21 hearing closed and look forward to the work session. Thank
22 you.

23 VOICE: Thanks for stopping by, Bill.

24 (Whereupon, at 7:50 p.m., the hearing was
25 adjourned.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Emergency Bill 48-87


Collective Bargaining - Fire/Rescue
Employees

BEFORE: Montgomery County Council

DATE: November 5, 1987

PLACE: Rockville, Maryland

represents the full and complete proceedings of the
aforementioned matter, as reported and reduced to
typewriting.


CHERYL L. CARTER
Reporter